IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE Nos. 7, 7A, 7B, 7C, 7D, 7E & 7F of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF WEALTH TAX
Versus
JAYKRISHNA HARIVALLBHDAS HUF

Appearance:
MR AKIL QURESHI FOR MR MANISH R BHATT for Applicant.
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 11/07/2001

COMMON JUDGEMENT
(Per : MR.JUSTICE A.R.DAVE)

1 For different assessment years the Income-tax Appellate Tribunal, Ahmedabad Bench, 'B' has referred to

this Court for its opinion the following questions of law under the provisions of Section 27(1) of the Wealth Tax Act,1957.

2 Looking to the fact that the questions have been referred to this Court for different assessment years, in our opinion, it would be just and proper to give them separate Reference numbers. The Registry is therefore directed to give separate Reference numbers after Refence No. 7, as Reference Nos. 7A, 7B, 7C, 7D, 7E and 7F.

3 Learned Advocate Mr.Akil Qureshi has appeared for the revenue whereas nobody has appeared for the respondent.

Reference No.7 of 1984.
Assessment Year 1969-70

"(1) Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the share in companies should be valued by applying rule 1-D of the Wealth-tax Act considering the excess of provision of taxation over the tax payable as per books without adjusting the advance tax paid?

(2) Whether, on the facts and in the circumstances of the case the Tribunal was right in law in coming to the conclusion that the Wadaj lands owned by the assessee were agricultural lands andnot liable to wealth-tax ?"

So far as the first question is concerned, it has been answered in the case of Bharat Hari Singhania and others vs. Commissioner of Wealth-Tax and others, 207 I.T.R.1 by the Hon'ble Supreme Court. Looking to the law laid down in the said case we answer the question in the negative i.e. in favour of the revenue and against the assessee.

So far as the second question is concerned we decline to answer the same as relevant facts and details are not available on record to come to the conclusion whether the lands in question were agriculture lands or otherwise.

Reference No.7A of 1984.

Assessment Year 1970-71.

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the shares in companies should be valued applying rule 1-D of the Wealth-tax Act considering the excess of provision of taxation over the tax payable as per books without adjusting the advance tax paid?"

So far as the above question is concerned, as stated hereinabove, the said question has already been answered in the case of Bharat Hari Singhania and Others Vs. Commissioner of Wealth-Tax and others, 207 I.T.R.1 and in view of the law laid down in the said judgment we answer the question in the negative i.e. in favour of the revenue and against the assessee.

Reference Nos. 7B, 7C, & 7D.
Assessment Years 1971-72, 1972-73 and 1973-74.

"(1) Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the assessee was entitled to deduction of amounts borrowed from H.K.(Estate) ?

(2) Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the shares in companies should be valued applying Rule 1-D of the Wealth tax Act considering the excess of provision of taxation over the tax payable as per books without adjusting the advance tax paid?"

So far as the first question is concerned, upon perusal of the record, we are unable to find any material to answer the question, and therefore, we decline to answer the question No.1.

So far as question No.2 is concerned, we answer the same in the negative i.e. in favour of the revenue and against the assessee in view of the judgment delivered in the case of Bharat Hari Singhania and others vs. Commissioner of Wealth-Tax and others, 207 I.T.R.1.

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the shares in companies should be valued applying Rule 1'D of the Wealth-tax Act considering the excess of provision of taxation over the tax payable as per books without adjusting the advance tax paid?"

The above question will also have to be answered in the affirmative i.e. in favour of the revenue and against the assessee in view of the judgment delivered in the case of Bharat Hari Singhania and others vs. Commissioner of Wealth-Tax and others, 207 I.T.R.1.

All the aforesaid References stand disposed of accordingly with no order as to costs.

Sd/- Sd/-

(A.R.Dave, J) (D.A.Mehta, J)

m.m.bhatt